

**ADOPTED REGULATION OF THE
SECRETARY OF STATE**

LCB File No. R080-11

Effective March 9, 2012

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-10, NRS 76.140.

A REGULATION relating to business licenses; adopting provisions relating to state business licenses issued by the Secretary of State; and providing other matters properly relating thereto.

Section 1. Chapter 76 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Average annual wage” means the average annual wage for a calendar year as computed pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.*

Sec. 4. *“Federal tax year” means any period of 12 months for which a person is required to report income, tax deductions and tax credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.*

Sec. 5. *For the purposes of this chapter and NRS 76.020, the Secretary of State interprets the term:*

1. “Governmental entity” to mean:

- (a) The government of the United States, this State or any other state or territory of the United States or an incorporated or unincorporated agency or instrumentality thereof;*
- (b) A corporation which is wholly owned by the government of the United States; and*
- (c) A county, city, town, district or other political subdivision of this State or any other state or territory of the United States.*

2. “Person who operates a business from his or her home” to mean a natural person who individually operates or a married couple who jointly operate a business from a personal residence in this State if no part of the personal residence is held open to the general public for use in furtherance of that business that would require the posting of a business license in accordance with a county or municipal ordinance.

Sec. 6. *The exemption from the requirement to obtain a state business license which is set forth in paragraph (e) of subsection 2 of NRS 76.020 applies only to a person who:*

- 1. Is registered with the Division of Motion Pictures pursuant to paragraph (a) of subsection 1 of NRS 231.128;*
- 2. Provides annually to the Secretary of State the registration number assigned to the person by the Division of Motion Pictures; and*
- 3. Creates or produces in this State feature films, movies made for broadcast on television or programs made for broadcast on television in episodes.*

Sec. 7. *The exemption from the requirement to obtain a state business license which is set forth in NRS 680B.020 applies only to a person who:*

- 1. Conducts business under a license or certificate of authority issued by the Division of Insurance of the Department of Business and Industry pursuant to title 57 of NRS; and*
- 2. Provides to the Secretary of State the number of that license or certificate of authority.*

Sec. 8. 1. *The exemption from the requirement to obtain a state business license which is set forth in paragraph (c) of subsection 2 of NRS 76.020 does not apply to a person who operates a business from his or her home during a federal tax year ending on or after December 31, 2011, in which:*

(a) He or she at any time failed to qualify as a person who operates a business from his or her home; or

(b) His or her net earnings from that business were greater than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the last day of that federal tax year.

2. *Except as otherwise provided in NRS 76.120, a person described in subsection 1 must obtain a state business license for his or her home-based business not later than 180 days after the last day of a federal tax year ending on or after December 31, 2011, in which the exemption for a home-based business does not apply to him or her.*

Sec. 9. 1. *If a person who operates a business from his or her home is required to obtain a state business license as a result of his or her net earnings from that business, his or her liability for each annual fee required by NRS 76.130 depends upon the net earnings of the person from that business for the most recent federal tax year ending before the date on which that fee would otherwise become due. The person is not liable for the fee if he or she establishes to the reasonable satisfaction of the Secretary of State that those net earnings were less than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the date on which that fee would otherwise become due.*

2. *For the purposes of determining the net earnings of a person who operates a business from his or her home, the Secretary of State will request, on a form prescribed by the Office of*

the Secretary of State, that the person disclose annually to the Secretary of State the net earnings reported on the federal income tax return filed with the Internal Revenue Service for that business for the preceding tax year.

Sec. 10. 1. *If a person, other than a natural person, has a state business license for the conduct of a business by that person, no natural person is required to obtain a state business license for any activity conducted in furtherance of that business solely because any income, tax deductions or tax credits attributable to that activity may be reported to the Internal Revenue Service as income or loss from a partnership, S corporation, estate, trust or real estate mortgage investment conduit on a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form.*

2. If a partnership or limited-liability company has a state business license for the conduct of a business by that person, no partner or member thereof is required to obtain a state business license for any activity conducted in furtherance of that business solely because any income, tax deductions or tax credits attributable to that activity may be reported to the Internal Revenue Service as income or loss from:

(a) A sole proprietorship on a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form; or

(b) A farm on a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form.

3. For the purposes of this section:

(a) "Limited-liability company" means a person organized pursuant to chapter 86 of NRS or the equivalent laws of another jurisdiction.

(b) “Partnership” means any association of two or more persons described in NRS 87.060, regardless of whether that association reports to the Internal Revenue Service partnership income, tax deductions or tax credits on Form 1065, U.S. Return of Partnership Income Form, or its equivalent or successor form.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE R080-11**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 76.

1) Public comments were solicited at the December 16, 2011 public workshop to solicit comments on proposed regulations and the December 23, 2011 hearing for the adoption of regulations. Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulations were sent via fax and email to persons known to have an interest in the subject of annual State Business License. These documents were also made available on the Secretary of State website, www.NVSOS.gov and posted at the following locations:

- The Capitol Building, 101 North Carson Street, Carson City, Nevada 89701
- The State Library, 100 North Stewart Street, Carson City, Nevada 89701
- The Secretary of State-Reno, 500 Damonte Ranch Pkwy, Suite 657-A, Reno, Nevada 89521
- The Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada 89101
- Nevada State Legislative Building, 401 South Carson Street, Carson City, Nevada 89701

The minutes of the December 16, 2011 public workshop to solicit comments on proposed regulations and the December 23, 2011 hearing for the adoption of regulations are attached hereto and contain a summary of the brief discussion held regarding the proposed amendments. A copy of the workshop and hearing minutes may be obtained from the office of the Secretary of State, 101 N. Carson Street, Suite 3, Carson City, Nevada 89701, 775-684-5720 or via email sent to scotta@sos.nv.gov.

2) The number persons who:

- (a) **Attended the December 16, 2011 public workshop: 3**
- (b) **Testified at the December 16, 2011 public workshop: 1**
- (c) **Submitted to the agency written comments: 4**
- (d) **Attended the December 23, 2011 hearing for the adoption of regulations: 5**

3) Comments were solicited from affected businesses in the same manner as they were solicited from the public.

4) The permanent regulation was adopted on December 23, 2011 and included changes to sections 2, 8 and 9 in consideration of public comment offered at the December 16, 2011 public workshop to solicit comments on proposed regulations and those received after the workshop and submitted to the office by 5:00 p.m. on December 21, 2011.

5) There is no estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public.

6) There is no additional cost to the agency for enforcement of this regulation.

7) There are no other state or government agency regulations that the proposed amendments duplicate.

8) The proposed regulation does not include provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

9) The proposed regulation does not involve a new fee or increase an existing fee.

10) The proposed regulation is not likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.